IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3340 of 1996

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SHREEJI ENTERPRISES

Versus

MAMLATDAR (RAJKOT TALUKA)

Appearance:

1. Special Civil Application No. 3340 of 1996

MR SANDEEP N BHATT for Petitioner No. 1

RULE SERVED for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 01/04/2004

ORAL JUDGEMENT

The petitioner is proprietor of the firm carrying on business in the name of M/s.Shreeji Enterprises,

Gondal Road, at Kotharia, Dist. Rajkot. The petitioner was trading in edible oil. The respondent No.1 came for inspection at the petitioner's shop when the petitioner was supervising the loading of edible oil tins in the truck. The panchnama was drawn on 21st August 1993 and the respondent No.1 seized the entire stock on the ground of irregularity in accounts. A show cause notice was issued by the respondent No.2 under Section 6 of the Essential Commodities Act, 1955 and the explanation was filed by the petitioner pursuant to the said notice. After considering the explanation of the petitioner, an order came to be passed on 30th October 1993 at Annexure.B to the petition, whereby the Assistant Collector, Rajkot, seized only 990 kgs. of ground-nut oil out of 1125 kgs. of the value of Rs.40,000/-, seized on 21st August 1993.

2.1 The Deputy Secretary, Food and Civil Supplies Department, Govt. of Gujarat, in revision, confirmed the order of the Assistant Collector and has passed an order of confiscation for the stock which was in excess.

3. Learned Advocate Mr.Bhatt for the petitioner has vehemently argued that the authorities have not considered the explanation tendered by the petitioner and the breach alleged against the petitioner is of technical nature and no seizure order or the confiscation order could have been passed by the authorities.

4. I have gone through the record of the petition. Prima facie, learned Advocate Mr.Bhatt is not in a position to satisfy that the observations made by the officers are contrary to record. Mr.Bhatt submitted that the view taken by the officers are without considering the explanation of the petitioner. But, in my opinion, the observations made by the authorities are just and proper and the penalty imposed is proportionate to the irregularity committed by the petitioner. Therefore, no interference is called for by this Court.

5. In the result, the petition is dismissed. Rule is discharged. There shall be no order as to costs.

(K.S. Jhaveri, J.)
Sreeram.